

1 Theodore F. Nuby, Plaintiff

2 45 Pond Street

3 Holbrook, MA 02343

4 v.

5 Judge Diane Moriarty, Defendant

6 1 Dennis Ryan Parkway

7 Quincy, MA 02169

8 and

9 Attorney Mark Connor, Defendant

10 510 Washington Street

11 Dorchester, MA 02124

12

13 **COMPLAINT**

14

15 Violation of Rights

16

17 On July 18, 2002, I, Theodore F. Nuby, Plaintiff, was sitting in my auto at the MBTA's
18 Ashmont Station waiting for my wife. Officer John Dwyer approached my auto and for no
19 reason started to poke me in the chest. Officer Dwyer was aware that I had been unable to
20 appear in Court on a civil action on April 1, 2002, due to having heart surgery. When I asked
21 him to stop poking me, he would not so I closed the car window. Officer Dwyer broke the
22 window and I was arrested for assault and battery on a police officer with a dangerous weapon.

23

24 Later that day, my wife had to borrow money from our son in order to post bail for me. I
25 advised the bondswoman that I had a civil case in Waltham and asked if it would be all right to
26 report to Court a day late. She said that was all right, so I reported on the next Court date.

27

28 When I next appeared in Court, I was assigned Attorney Mark Conner who told me to
29 plead guilty when I returned.

30

RECEIVED
U.S. POSTAL OFFICE
JULY 27 2005 1:43 PM
MAILED COURTHOUSE
QUINCY MASS

05 - 11125 RGS
Referred to MJ T6 Dean

31 On November 26, 2002, I went to Court in Dorchester. I told Attorney Mark Connor that
32 I did not want to plead guilty on the case, but he was insistent. Judge Diane Moriarty refused to
33 let me have another attorney, and would not grant a continuance so that I could get another
34 attorney.

35

36 I therefore plead guilty, got probation, and the lawyer had me sign a document that was
37 supposed to release me from the Court. That document turned out to be an admission to another
38 crime which I knew nothing about for citation #731988 (enclosed Exhibit 1). The ticket that I
39 had actually appeared in Court for, three citations later, was #731991 dated July 18, 2002.

40

41 Although ticket #731988 was from the same book as Officer John Dwyer's citation, it
42 was dated January 18, 2002, it was designated for South Boston Court (but was later heard in
43 Dorchester), and it was signed by Detective Joseph Leary. The automobile was listed as a
44 Cadillac Seville.

45

46 I was never sent a summons to appear for case #1139 (citation #731988), and only found
47 out about the trial when I applied for a new driver's license which had been lost when the same
48 MBTA police officer arrested me again for assault and battery on a police officer, for which I
49 was found not guilty. After posting bail on that matter, I asked the bondsman if I could report on
50 the second Court date as I had a civil matter the next day in Waltham. He said it was okay, but
51 when I reported for Court, I was defaulted by Judge Diane Moriarty and spent two weeks in jail.

52

53 The South Boston Court knew nothing about the ticket, and Detective Leary admitted to
54 me that he had never gone to Court on any case against me. I tried to obtain the tape of the trial
55 on three occasions, but was informed by the Dorchester Court Clerk on February 18, 2005, that it
56 is missing/lost (tape #3699, start 2330, end 2802).

57

58 Attorney Mark Conner obtained my signature under false pretense.

59

60 Judge Diane Moriarty defaulted me and put me in jail when I had not broken the law.
61 She tried me on a case that I knew nothing about, using a witness who did not actually appear in

62 Court, Detective Joseph Leary. I, Theodore F. Nuby, was not in Court during the alleged trial
63 and the tape(s) is missing.

64

65 I believe that Judge Moriarty excluded her immunity by committing an illegal act in this
66 trial.

67

68 Due to the two citations and the actions taken in Court, I was assessed ten points
69 surcharge and I lost my driver's license for one year until I brought the case back to Court. My
70 fees amounted to \$1,090.00. It cost \$1,600.00 to get my license back. The surcharge increased
71 approximately \$800.00.

72

73 WHEREFOR:

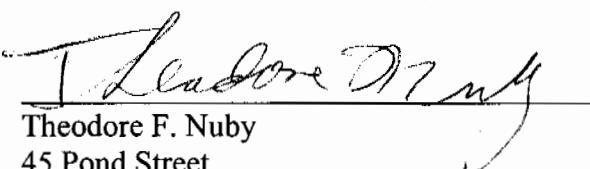
74 Because of the expenses incurred of \$3,490.00 and the loss of income for one year,
75 \$12,000.00, I would ask that this Court rectify the record, grant me the sum of \$15,490.00, and
76 take any action the Court deems fit with regard to the illegal actions taken against me. I ask for a
77 speedy hearing or trial, as I am a 71-year-old man who is on dialysis seven days per week.

78

79 I, Theodore F. Nuby, swear under the pains and penalties of perjury that all of the
80 statements made herein are the truth to the best of my knowledge.

81

82

83 
84 Theodore F. Nuby
85 45 Pond Street
86 Holbrook, MA 02343
87 (781) 767-1475

88

89

90

Dated: 5-19-2005

INSTRUCTIONS: This form must be typed or printed clearly, completed prior to the Pretrial Hearing, signed by both counsel and submitted to the court by the defendant at or before the Pretrial Hearing.

Ted Nuby

Dorchester District Court
510 Washington Street
Dorchester, MA 02124

SECTION I**TENDER OF PLEA**

Defendant in this case hereby tenders the following: **PLEA OF GUILTY** **ADMISSION TO FACTS SUFFICIENT FOR A FINDING OF GUILTY** conditioned on the dispositional terms indicated below. *Include all proposed terms (guilty finding, finding of sufficient facts, continued without finding, dismissal, fine, costs, probation period and supervision terms, restitution amount including the identification of the recipient of restitution, and any sentence of incarceration, split sentence or suspended sentence, etc.). Number each count and specify terms for each count separately.*

COUNT NO.	DEFENDANT'S DISPOSITIONAL TERMS (Check "Yes" if Prosecution agrees – Check "No" If Prosecution disagrees)	PROSECUTOR'S RECOMMENDATION (Required if Prosecutor disagrees with terms)
1	Guilty - Filed	YES
2	Resp - Filed	NO
3	Dismiss	YES
		NO
		YES
		NO
		YES
		NO

WE HAVE CONSULTED WITH THE PROBATION DEPARTMENT REGARDING ANY PROBATION TERMS SET FORTH ABOVE.

SIGNATURE OF DEFENSE COUNSEL <i>Mark J. C.</i>	DATE 11-26-02	SIGNATURE OF PROSECUTING OFFICER <i>J. J.</i>	DATE 11-26-02
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SECTION II PLEA OR ADMISSION ACCEPTED BY THE COURT

The Court **ACCEPTS** the tendered Plea or Admission on defendant's terms set forth in Section I, and will impose sentence in accordance with said terms, subject to submission of defendant's written WAIVER (see Section IV on reverse of this form), completion of the required oral COLLOQUY, a determination that there is a FACTUAL BASIS for the Plea or Admission, and notice of ALIEN RIGHTS.

SECTION III PLEA OR ADMISSION REJECTED BY THE COURT

The Court **REJECTS** the defendant's dispositional terms set forth above and, in accordance with Mass. R. Crim. P. 12(c)(6), has set forth to the defendant the dispositional terms it would find acceptable, to wit:

DEFENDANT'S DECISION IF COURT REJECTS TENDERED PLEA OR ADMISSION:

Defendant **WITHDRAWS** the tendered Plea or Admission; the parties must complete and file a Pretrial Conference Report, a Pretrial Hearing must be conducted and a trial date scheduled, if necessary.

Defendant **ACCEPTS** terms set forth by the Court, a Plea or Admission will be accepted by the court and said dispositional terms imposed, subject to submission of defendant's written WAIVER (see Section IV on reverse of this form), completion of the required oral COLLOQUY, a determination that there is a FACTUAL BASIS for the Plea or Admission, and notice of ALIEN RIGHTS.

SIGNATURE OF JUDGE ACCEPTING OR REJECTING PLEA OR ADMISSION <i>D. Murray</i>	DATE 11-26-02	SIGNATURE OF DEFENSE COUNSEL (If rejection decision made) <i>X</i>	DATE
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MASSACHUSETTS UNIFORM CITATION

DATE CITATION WRITTEN 04/18/02	AGENCY CODE MTA	OFFICER ID NUMBER R512	COURT CODE 07	TYPE OF CITATION <input checked="" type="checkbox"/> MOTOR VEH. <input checked="" type="checkbox"/> OPER. OWNER		K 0731988	
MOTOR VEHICLE LICENSE NO. OF VIOLATOR 588865104				STATE MA	CLASS D	CDL LICENSE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	RACE B M
VIOLATOR NAME (Last) NVBY	(First) THEODORE			(Initial)	NON INVENTORY MV SEARCH <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES DATE 04/24/02		
ADDRESS 45 POND ST	CITY/TOWN NOL BROOK			STATE ZIP MA 02342			
PLATE TYPE MOTOR VEHICLE REGISTRATION NO CO 4H8530	STATE MA	CDL VEHICLE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	HAZARDOUS MATERIAL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	MAKE AND TYPE CADILLAC SEMI 91 BLV	YEAR 1991	COLOR BLK	
DATE OF OFFENSE 04/11/02	LOCATION OF OFFENSE (Include #, st, hwy, city or town) ASHMONT MTA STATION			TIME OF OFFENSE 2:00	<input type="checkbox"/> AM	<input checked="" type="checkbox"/> PM	ACCIDENT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
A CHAP/SEC/SUB C 90 § 25	B CRIM C CIVIL	DESCRIPTION OF OFFENSE FAILURE TO STOP FOR PD			ASSESSMENT \$		
B CHAP/SEC/SUB C 90.816	C CRIM C CIVIL	EXCESSIVE TIRE NOISE			\$		
D SPEEDING <input type="checkbox"/> 80/17 <input checked="" type="checkbox"/> 80/8	E CIVIL	MPH IN	MPH ZONE A	<input type="checkbox"/> POSTED <input checked="" type="checkbox"/> NOT POSTED	<input type="checkbox"/> CLOCKED <input checked="" type="checkbox"/> RADAR <input type="checkbox"/> ESTIMATED	\$	
SPEEDING ASSESSMENTS INCLUDE A \$25 SURCHARGE FOR THE HEAD-INJURY TRUST FUND					TOTAL DUE		
OFFICER CHECK ONE ONLY	<input type="checkbox"/> ALL CIVIL INFRACTIONS (See Instruction A on back)		<input checked="" type="checkbox"/> CRIMINAL APPLICATION (See Instruction B on back)		<input type="checkbox"/> ARREST	<input type="checkbox"/> WARNING (No action required by violator)	
OFFICER CERTIFIES X	IN HAND TO VIOL.			IN MAILED TO VIOL.	IN HAND TO VIOLATOR'S AGENT		
VIOLATOR/AGENT ACKNOWLEDGED RECEIPT OF CITATION X				AGENT NAME DORCHESTER DISTRICT SWASHING B/N ST DORCHESTER MA 02124			
AGENT'S LICENSE NUMBER & STATE							

NOTICE TO VIOLATOR
SEE REVERSE SIDE
FOR INSTRUCTIONS

NOTICE TO OFFICER
ENTER ASSESSMENT(S)
AND TOTAL DUE \$ ONLY
IF YOU CHECK
"ALL CIVIL INFRACTIONS"
ENTER COURT ADDRESS
BLOW ONLY IF YOU CHECK
"CRIMINAL APPLICATION".

1-7
SENT TO Registry
VIOLATOR COPY

X
NO COPY SENT TO
PLAINTIFF

CRIMINAL DOCKET

Case 1:05-cv-11125-RGS Document 1

DOCKET NO. 0207CR001139

COURT DIVISION
Dorchester INTERPRETER REQUIRED

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

NUBY, THEODORE
45 POND STREET
HOLBROOK, MA 02343T. N. *Betress*

ORIGINAL Master

DEFT. DOB AND SEX

08/24/1933 M

DATE OF OFFENSE(S)

01/18/2002

PLACE OF OFFENSE(S)

DORCHESTER

COMPLAINANT

LEARY, DET. JOSEPH

POLICE DEPARTMENT (if applicable)

MBTA POLICE (COMMUN)

DATE OF COMPLAINT

02/20/2002

RETURN DATE AND TIME

03/07/2002 09:00:00

COUNT/OFFENSE

1. 90/25/D STOP FOR POLICE, FAIL c90 §25

ATTORNEY NAME

Filed 03/27/2005

Page 6 of 7 Waived

DATE and JUDGE

DOCKET ENTRY

Attorney appointed (SJC R. 3:10)
 Atty denied and Deft Advised per 211D §2A
 Waiver of counsel found after colloquy

Terms of release set:

PR Bail:
 Held (276 §58A)
 See back for special conditions

Arraigned and advised: *Birch*

Potential of bail revocation (276 §58)
 Right to bail review (276 §58)
 Right to drug exam (111E §10)

Advised of right to jury trial:

Does not waive
 Waiver of jury trial found after colloquy

Advised of trial rights as pro se (Supp. R. 4)

Advised of right of appeal to Appeals Ct (R. 28)

FINE SURFINE COSTS RESTITUTION V/W ASSESSMENT
 WAIVED

DISPOSITION DATE and JUDGE

NOV 26 2002 Moriarty

DISPOSITION METHOD

 Guilty Plea or Admission to Sufficient Facts accepted after colloquy and 278 §29D warning

COUNT/OFFENSE

2. 90/16 OPERATION OF MOTOR VEHICLE, IMPROPER * c90

DISPOSITION DATE and JUDGE

NOV 26 2002 Moriarty

DISPOSITION METHOD

 Guilty Plea or Admission to Sufficient Facts accepted after colloquy and 278 §29D warning

COUNT/OFFENSE

3. 666666 MISCELLANEOUS MUNIC ORDINANCE/BYLAW VIO

DISPOSITION DATE and JUDGE

NOV 26 2002 Moriarty

DISPOSITION METHOD

 Guilty Plea or Admission to Sufficient Facts accepted after colloquy and 278 §29D warning

COUNT/OFFENSE

4. 666666 MISCELLANEOUS MUNIC ORDINANCE/BYLAW VIO

DISPOSITION DATE and JUDGE

NOV 26 2002 Moriarty

DISPOSITION METHOD

 Guilty Plea or Admission to Sufficient Facts accepted after colloquy and 278 §29D warning

COUNT/OFFENSE

5. 666666 MISCELLANEOUS MUNIC ORDINANCE/BYLAW VIO

DISPOSITION DATE and JUDGE

NOV 26 2002 Moriarty

DISPOSITION METHOD

 Guilty Plea or Admission to Sufficient Facts accepted after colloquy and 278 §29D warning

A TRUE COPY ATTEST.

CLERK-MAGISTRATE/ASST. CLERK X

ON (DATE)

COURT ADDRESS

Dorchester District Court
510 Washington Street
Dorchester, MA 02124

ADDITIONAL COUNTS ATTACHED

MASSACHUSETTS UNIFORM CITATION

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VIOLATOR COPY

DATE CITATION WRITTEN 07/18/02	AGENCY CODE MIA	OFFICER ID NUMBER RS12	COURT CODE 03	TYPE OF CITATION ✓ VIOLATOR OWNER	FILED 05/27/2005	Page 7 of 7
MOTOR VEHICLE LICENSE NO OF VIOLATOR S88865104		STATE MA	CLASS D	CDL LICENSE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	RACE BM	SEX <input checked="" type="checkbox"/> M <input type="checkbox"/> F
VIOLATOR NAME (Last) THEODORE	(First) THEODORE	(Initial) F		NON-INVENTORY MV SEARCH <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		DATE OF BIRTH 08/24/33
VIOLATOR ADDRESS 45 PINE ST	CITY/TOWN HOLBROOK	STATE MA	ZIP 02343			
PLATE TYPE CO	MOTOR VEHICLE REGISTRATION NO J48532	STATE MA	CDL VEHICLE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	HAZARDOUS MATERIAL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	MAKE AND TYPE CADILLAC SE91 BL	YEAR COLOR 1960
DATE OF OFFENSE 07/18/02	LOCATION OF OFFENSE (include #, st, hwy, city or town) ASWOMONT MDTA AVE BOSTON	TIME OF OFFENSE 1115		AM <input type="checkbox"/>	PM <input checked="" type="checkbox"/>	ACCIDENT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
OFFENSE (S) A C 90-525	CHAP/SEC/SUB REFUSE TO STOP FOR %	DESCRIPTION OF OFFENSE CRIM	ASSESSMENT \$			
B C 90-525		CIVIL	MPH IN A ZONE	POSTED <input type="checkbox"/>	CLOCKED <input type="checkbox"/>	\$
C C 90-525				NOT POSTED <input type="checkbox"/>	RADAR <input type="checkbox"/>	\$
					ESTIMATED <input type="checkbox"/>	
SPEEDING ASSESSMENTS INCLUDE A \$26 SURCHARGE FOR THE HEAD INJURY TRUST FUND					TOTAL DUE \$	
OFFICER CHECK CIN ONLY	<input type="checkbox"/> ALL CIVIL INFRACTIONS (See instruction A on back)	<input type="checkbox"/> CRIMINAL APPLICATION (See instruction B on back)	<input checked="" type="checkbox"/> ARREST	<input type="checkbox"/> WARNING (No action required by violator)	COURT ADDRESS	
OFFICER CERTIFIES X	<input type="checkbox"/> IN HAND TO VIOLATOR X	<input checked="" type="checkbox"/> MAILED TO VIOLATOR X	<input type="checkbox"/> IN HAND TO VIOLATOR'S AGENT	AGENT'S NAME ✓ J. D. DAWBER		
VIOLATOR/AGENT ACKNOWLEDGES RECEIPT OF CITATION X		AGENT'S LICENSE NUMBER & STATE				